

**REMARKS/ARGUMENTS**

This response is directed to the Office Action dated October 18, 2006 regarding patent application serial number 10/799,117.

**Claim Objections**

Regarding the claim objections directed to Claims 1 and 6, the Applicant has amended the objected-to language, i.e., front and rear portion, to now read, “front and rear portions.” The Examiner recommended adding an s to the subject language, and Applicant has now adopted the Examiner’s recommendation.

**Claim Rejections – 35 USC §103**

In response to the Examiner’s 35 USC §103(a) rejection directed to Claims 1-3 and 6-8 based upon U.S. Patent Number 5,361,433 to Vanzant in view of U.S. Patent Number 6,113,188 to Stewart et al., Applicant makes the following arguments. Regarding Claims 1-3, the Office Action explicitly acknowledges that Vanzant fails to teach four of the recited claimed elements:

- 1) a rigid base;
- 2) a cover;
- 3) a compartment; and
- 4) a self-contained air compressor.

And regarding Claims 6-8, the Office Action explicitly acknowledges that Vanzant fails to teach five of the claimed elements:

- 1) a rigid base;
- 2) a cover;
- 3) a compartment;
- 4) a self-contained air compressor; and
- 5) a second valve.

In addition to these five elements that the Office Action acknowledges not to be taught by Vanzant, Applicant now points out other claim elements that Vanzant fails to teach.

These additional elements not taught by Vanzant include:

- 6) a one-piece inflatable bladder positioned on the base ... ;
- 7) first and second trapezoidal-shaped side panels operatively connecting the front and rear portions;
- 8) a valve for inflation and deflation of the bladder, the valve operatively connected to one of the first and second side panels of the bladder; and
- 9) a hose having first and second ends, wherein the hose is operatively connected to an output of the compressor at the first end into the valve at the second end.

Regarding Claims 1-3, it appears that Vanzant fails to teach at least eight of the claim elements. Regarding Claims 6-8, it appears that Vanzant fails to teach at least nine of the claim elements.

In an apparent effort to supplement the Vanzant teachings, the Office Action presents an argument directed to concluding that when the teachings of Vanzant are combined with the teachings of Stewart et al., the claimed invention is arrived at. Unfortunately, even when these two references are combined, the claimed invention is still not taught. As a non-limiting example, neither Vanzant nor Stewart et al. teach “first and second trapezoidal shaped side panels operatively connecting the front and rear portions.” In Vanzant, Figs. 1 and 2 show a side panel that is not trapezoidal in shape; furthermore, Stewart et al. also fails to teach a trapezoidal-shaped side panel. Instead, Stewart et al. teaches an accordion-like side panel having arced front and rear edges. As yet another non-limiting example of an element that is taught by neither Vanzant nor Stewart et al., neither reference teaches, “a valve for inflation and deflation of the bladder, the valve operatively connected to one of the first and second side panels of the bladder.” In Vanzant, Fig. 2 clearly shows that structural element **18**, i.e., and air inlet, is not connected to one of the first and second side panels of the bladder. Furthermore, Stewart et al in Fig. 4 shows lowering valve **32** that is not taught to be operatively connected to one of the first and second side panels of the bladder. Still another example

of an element that is taught by neither Vanzant nor Stewart et al. is, “ a compartment located at one of the first and second side panels of the bladder and operatively connected to the base.” In neither the description nor drawings taught by Vanzant, can there be found a compartment located at one of the first and second side panels of the bladder and operatively connected to the base. Also, in Figs. 2-4, Stewart et al. failed to teach a compartment located at one of the first and second side panels of the bladder inoperatively connected to the base. Instead, Figs. 2-4 present no teaching directed to a compartment or a compartment located at one of the first and second side panels of the bladder inoperatively connected to the base. In Stewart et al., Figs. 2-4 only show a battery 19 or compressor 18 within a carrying case. Again, even if Vanzant and Stewart et al. were combined, the combined teachings still do not arrive at the claimed invention.

In response to the argument presented in the Office Action at page 4 in the last sentence of the bridging paragraph, relating to why a person of ordinary skill in the art would be motivated to make the alleged modifications, Applicant does not understand the presented position. The presented position appears to be directed to the conclusion that the apparatus itself, taught by Stewart et al., acts as a necessary suggestion to be combined with another reference. The reasoning presented in the Office Action does not satisfy the rule, and Stewart et al. fails to provide any motivation for its combination with another publication. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification (In re Fritch, 23 USPQ 2<sup>nd</sup> 1780, 1783-84 (Fed Cir. 1992)). Stated differently, the elements taught by Stewart et al. that make up the disclosed composition cannot by themselves provide a valid basis for motivation to combine those very teachings with another publication's teachings.

Regarding the 35 USC §103(a) rejections directed to Claims 3 and 8, the Office Action supports this rejection by reasoning that in addition to combining Vanzant with Stewart et al., which Applicant has shown that such combination still does not arrive at the claimed invention, it would have still further been obvious to modify the height of the rear portion to be approximately seven inches higher than the front portion at full

inflation. Because the combined teachings of Vanzant and Stewart et al. fail to teach the claimed invention, Applicant argues that it would not have been an obvious matter of design choice to modify the height of the rear portion of the bladder because the combined teachings of Stewart et al. and Vanzant arrive at a apparatus that is distinct from the claimed invention. And even if it were obvious to modify the combined teachings of Vanzant and Stewart et al., a seven-inch differential between the height of the rear portion and the height of the front portion still does not teach the claimed invention.

Regarding Claims 4, 5, 9 and 10 that are rejected under 35 USC §103(a) as being unpatentable over Vanzant in view of Stewart et al. as applied to Claims 1-3 and 6-8 above and further in view of U.S. Patent 6,264,279 B1 to Chow, Applicant responds as follows. The Office Action now presents the position that these three references, when combined, teach the claimed invention. And furthermore, the Office Action presents the position that these three references somehow present their motivation to be combined. And still further, the Office Action states that Chow shows a seat apparatus similar to that of Vanzant ... In response, Applicant points out that Chow teaches a therapeutic sling seta, wherein Vanzant teaches a pneumatic sit/standing device which is preferably used in assisting an invalid or physically disadvantaged person in rising from or being seated in a chair. These two apparatuses are anything but similar. Furthermore, after thoroughly reviewing Chow and the Examiner's targeted citation directed to, "cover 268 (Fig. 14A)," Applicant now recites the verbatim language taught in Chow, "Cover 260A has a front flap 268 which is folded over seat 200 after it is inserted into cover 260A and fastened to the underside using a removable attachment means such as Velcro (not shown)." (Column 8, Lines 37-42). Furthermore, the Office Action states that one would have been motivated to make such a modification in view of this suggestion in Chow that the removable cover protects from debris and is water resistant. In response to this misstatement of what is taught by Chow, Applicant again reads verbatim from Chow, "Bag 260, which is preferably constructed from a water resistant and low-friction material such as CORDURA, contains a zipper 262 which is affixed along its rear end such that seat 200 can be easily inserted into bag 260 to protect it from any debris or

liquids which may tend to soil seat **200** if unprotected.” (Column 8, Lines 22-30). Chow’s teachings have been misrepresented in the Office Action. According to Chow, it is not the front flap **268** that provides protection from debris or soiling, but instead it is a bag **260** that is taught to serve this purpose. And because it is a bag that is taught by Chow to protect from debris and is water resistant, one would expect a bag to be combined with the teachings of Stewart et al. and Vanzant in making such a rejection. Not only does the Office Action misrepresent what is taught by Chow, but it also fails to teach that there is motivation for a bag to cover the alleged apparatus arrived at from the combination of the Vanzant and Stewart et al. teachings.

### **CONCLUSION**

In conclusion, the combination of the teachings from both Vanzant and Stewart et al. do not arrive at the claimed invention for the above stated reasons. Furthermore, any further combination of an additional publication or an alleged statement of obviousness based upon what would allegedly be known to a person of ordinary skill in the art also fails to teach the claimed invention. Therefore, Applicant requests that the above rejections be withdrawn and in their place, a Notice of Allowance be issued.

If the Examiner would like to discuss any of the arguments raised by the Applicant, the below signed attorney would gladly welcome a telephone call at 330.434.5239.

Respectfully submitted,

**BROUSE MCDOWELL**

2/20/07

Date

Telephone No.: (330) 535-5711  
Fax No.: (330) 253-8601



Daniel J. Schlue  
Reg. No. 52,194